SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1927

No. 115

JOHN D. NAGLE, AS COMMISSIONER OF IMMIGRATION AT THE PORT OF SAN FRANCISCO, PETITIONER

vs.

LOI HOA

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

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NAMES AND ADDRESSES OF ATTORNEYS OF RECORD.

For Appellant:

JOSEPH P. FALLON, Esq., Hearst Bldg., San Francisco, Calif.

For Appellee:

UNITED STATES ATTORNEY, San Francisco, Calif.

In the Southern Division of the United States District Court, for the Northern District of California, Second Division.

No. 18,897.

In the Matter of LOI HOA, No. 24,594/3–2 ex S. S. "TAIYO MARU," October 31, 1925, on Habeas Corpus.

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of said Court:

Sir: Please make copies of the following papers to be used in preparing transcript on appeal:

1. Petition for writ of habeas corpus.
2. Order to show cause.
3. Demurrer to petition.
4. Minute order regarding Immigration Record.
5. Judgment and order dismissing order to show cause and denying petition for writ.
6. Notice of appeal.
7. Petition for appeal.

8. Assignment of errors.
9. Order allowing appeal.
10. Citation on appeal—original and copy.
11. Stipulation and order regarding Immigration Record.
12. Clerk's certificate.

JOSEPH P. FALLON,
Attorney for Petitioner.

[Endorsed]: Filed Mar. 19, 1926. [1*]

[Title of Court and Cause.]

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable, the Southern Division of the United States District Court, for the Northern District of California, Second Division:

The petition of Louie Wah Ton respectfully shows: That your petitioner is a citizen of the United States and a resident of the State and Northern District of California; that Loi Hoa, the detained person, on whose behalf this petition is made, is a Chinese merchant possessing a Section 6 certificate as required by law and as such is entitled to enter the United States; that the said Loi Hoa, hereinafter in this petition referred to as the "detained," is unlawfully imprisoned, detained, confined and restrained of his liberty by John D. Nagle, Commissioner of Immigration for the port of San Francisco at the Immigration Station at Angel Island, County

*Page number appearing at foot of page of original certified Transcript of Record.

of Marin, State and Northern District of California; that said imprisonment, detention, confinement and restraint are illegal and that the illegality thereof consists in this, to wit:

That it is claimed by the said Commissioner that the said detained is a Chinese person and alien not subject or entitled to admission into the United States under the terms and provisions [2] of the Acts of Congress of May 6, 1882, July 5, 1884, November 3, 1893, and the Act of Congress of April 29, 1902, as amended and re-enacted by Section 5 of the Deficiency Act of April 7, 1904, which said Acts are commonly known and referred to as the Chinese Exclusion or Restriction Acts, and that he, the said Commissioner, intends to deport the said Loi Hoa away from and out of the United States to the Republic of China on the SS. "Taiyo Maru," sailing from the port of San Francisco, February 2, 1926.

That the said Comissioner of Immigration claims that the said detained arrived at the port of San Francisco on or about October 31, 1925, #24,594/3-2 ex SS. "Taiyo Maru," and thereupon made application to enter the United States as a Section 6 Chinese merchant from Saigon, French Indio-China; that the application of the said detained to enter the United States as a Section 6 Chinese merchant was denied by a Board of Special Inquiry, and that an appeal was thereupon taken from the excluding decision of said Board of Special Inquiry to the Secretary of the Department of Labor, and that the said Secretary thereafter dismissed the said appeal; that it is claimed by the said Commissioner that in

all of the proceedings had herein the said detained was accorded a full and fair hearing; that the action of said Board of Special Inquiry and said Secretary of Labor was taken and made by them in the proper exercise of the discretion committed to them by the statutes in such cases made and provided and in accordance with the regulations promulgated under the authority contained in said statutes.

But, on the contrary, your petitioner, upon his information and belief, alleges that the hearing and proceedings had herein and the action of the said Board of Special Inquiry and the action of said Secretary of Labor was and is in excess of the [3] authority committed to them by the statutes, and in this behalf your petitioner alleges:

That your petitioner is informed and believes, and therefore alleges the fact to be, that the sole ground for the excluding decision as set forth on the notice of dismissal of the appeal is as follows: "This appeal has been dismissed on the ground that the applicant has not submitted a Section 6 certificate issued by the Government to which he owes allegiance and of which he is a citizen or subject." That your petitioner alleges that the detained did present a Section 6 certificate in proper form, complying with all the requirements of the statute and contains all of the information required by law to be furnished in such cases; that said Section 6 certificate is in complete accord with Section 6 of the act of May 6, 1882, as amended by the act of July 5, 1884, which provides as follows:

"That in order to the faithful execution of the provisions of this act, EVERY CHINESE PERSON, other than a laborer, *who may be entitled by said treaty or this act* to come within the United States, and who shall be about to come to the United States, shall obtain the permission of and be identified as so entitled by the Chinese Government, *or of such other foreign government of which* AT THE TIME, *such Chinese person shall be a subject,* in *each* case to be evidenced by a certificate issued *by such government.* * * *"

That the detained's Section 6 certificate was signed by the Chief of the Immigration Service and it appears in the body of said document that he "has been designated for that purpose by the government of Indo-China" and that the applicant (in the language of the statute) "has the permission of said government to go and reside within the territory of the United States after an investigation and verification by the United States in this country"; that said certificate, in addition thereto, is authenticated by the American Consul at Saigon, French-Indo-China, who certifies that "This certificate was originally signed by the Chief of the [4] Immigration Service of Cochin-China, delegated by the Governor-General of Indo-China to sign Chinese certificates in Cochin-China." That said Section 6 certificate so presented by the detained was the act and deed of the Indo-China government and as such entitled the detained under the law to the right of entry into the United States; that the denial of said right was

an error in the interpretation of the law, illegal and an abuse of discretion on the part of the aforesaid officials.

That all of the testimony taken and all orders and findings of said Board of Special Inquiry and said Secretary of Labor and all other documents, papers and proceedings in said matter of the application of Loi Hoa for admission to the United States are, as your petitioner is informed and believes and therefore alleges the fact to be, incorporated in the record of the application of said Loi Hoa for admission to the United States and are now in the possession of and subject to the control of said Secretary of Labor, and all of them are now inaccessible to your petitioner and the said detained; that said Secretary of Labor will not permit an inspection of said record nor allow a copy of the same to be made in order to be filed with and made a part of this petition.

That the said Loi Hoa, the detained person, has exhausted all his rights and remedies and has no further remedy before the Department of Labor, and that unless the writ of habeas corpus issue out of this court as prayed for herein, directed to John D. Nagle, Commissioner as aforesaid, in whose custody the body of said Loi Hoa is, said Loi Hoa will be deported from the United States to China without due process of law.

WHEREFORE, your petitioner prays that a writ of habeas corpus be issued by this Honorable Court, directed to and commanding said John D. Nagle, Commissioner of Immigration at the port of [5] San

Francisco, to have and produce the body of said detained person before this Court at a time and place to be specified in said order, together with the time and cause of his detention, so that the same may be inquired into, all to the end that said detained person may be permitted to enter the United States and go hence without day.

Dated January 18th, 1926.

JOSEPH P. FALLON,
Attorney for Petitioner.

State of California,
City and County of San Francisco,—ss.

Louie Wah Ton, being duly sworn, deposes and says: That he is the petitioner named in the foregoing petition; that he has read said petition and knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

LOUIE W. TON.

Subscribed and sworn to before me this 18th day of January, 1926.

[Seal] WM. E. SCHORD,
Notary Public in and for the City and County of San Francisco, State of California.

[Endorsed]: Filed Jan. 22, 1926. [6]

[Title of Court and Cause.]

ORDER TO SHOW CAUSE.

Upon reading and filing the verified petition of Louie Wah Ton, praying for the issuance of the writ of habeas corpus,—

IT IS ORDERED that John D. Nagle, as Commissioner of Immigration at the port of San Francisco, at Angel Island, be and appear before the above-entitled court, Department Number Two thereof, on Monday, the 1st day of Febry., 1926, to show cause, if any he have, why a writ of habeas corpus should not issue in this matter and the petition be granted as prayed, and this at the hour of 10 o'clock A. M. of said day; and

IT IS FURTHER ORDERED that Loi Hoa be not removed from the jurisdiction of this Court until the further order of this Court; and

IT IS FURTHER ORDERED that a copy of this order be served upon said John D. Nagle, or such other person having the said Loi Hoa in custody.

Dated January 22, 1926.

FRANK H. KERRIGAN,
United States District Judge.

[Endorsed]: Filed Jan. 22, 1926. [7]

[Title of Court and Cause.]

DEMURRER TO PETITION FOR WRIT OF HABEAS CORPUS.

Comes now the respondent, John D. Nagle, Commissioner of Immigration at the port of San Francisco, in the Southern Division of the Northern District of California, and demurs to the petition for a writ of habeas corpus in the above-entitled cause and for grounds of demurrer alleges:

I.

That the said petition does not state facts sufficient to entitle petitioner to the issuance of a writ of habeas corpus, or for any relief thereon.

WHEREFORE, respondent prays that the writ of habeas corpus be denied.

GEO. J. HATFIELD,
United States Attorney.
ROBERT M. FORD,
Asst. United States Attorney.

[Endorsed]: Filed Feb. 23, 1926. [8]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Tuesday, the 23d day of February, in the year of our Lord one thousand nine hundred and twenty-six. Present: The Honorable FRANK H. KERRIGAN, District Judge.

[Title of Cause.]

MINUTES OF COURT—FEBRUARY 23, 1926—ORDER SUSTAINING DEMURRER, ETC.

This matter came on regularly this day for hearing on order to show cause as to the issuance of a writ of habeas corpus herein. Counsel was present for respective parties. Respondent filed demurrer to petition and also presented Immigration Records as Respondent's Exhibits "A" and "B," and all parties consenting thereto, it is ordered that said Immigration Records be considered as part of original petition. After argument by the respective attorneys, the Court ordered that said matter be and the same is hereby submitted. After consideration had thereon, further ordered demurrer sustained and writ denied. [9]

[Title of Court and Cause.]

NOTICE OF APPEAL.

To the Clerk of the Above-entitled Court, to JOHN D. NAGLE, Commissioner of Immigration, and to GEORGE J. HATFIELD, Esq., United States Attorney, His Attorney:

You, and each of you, will please take notice that Louie Wah Ton, the petitioner in the above-entitled matter, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment rendered, made and en-

tered herein February 23, 1926, denying the petition for a writ or habeas corpus filed herein.

JOSEPH P. FALLON,
Attorney for Petitioner. [10]

[Title of Court and Cause.]

PETITION FOR APPEAL.

Comes now Louie Wah Ton, the petitioner in the above-entitled matter, and respectfully shows:

That on the 23d day of February, 1926, a judgment and order was made by the above-entitled Court and entered herein denying a writ of habeas corpus in the above-entitled matter, and dismissing the petition of said petitioner for a writ of habeas corpus, in which said judgment and order certain errors were committed to the prejudice of the above-named Loi Hoa, which more fully appear by his assignment of errors filed herewith.

WHEREFORE, your petitioner prays that an appeal may be allowed to the United States Circuit Court of Appeals for the Ninth Circuit for the correction of the errors so complained of, and that the Clerk of the above-entitled court be directed to make and prepare a transcript of all the papers, proceedings and record of the above-entitled matter and to transmit the same to the United States Circuit Court of Appeals for the Ninth Circuit, within the time allowed by law, and for an order that the execu-

tion of the warrant or deportation of said Loi Hoa be stayed pending this appeal.

JOSEPH P. FALLON,
Attorney for Petitioner. [11]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Now comes the petitioner, Louie Wah Ton, through his attorney, Joseph P. Fallon, Esq., and sets forth the errors he claims the above-entitled court committed in denying his petition for a writ of habeas corpus, as follows:

I.

That the Court erred in not granting the writ of habeas corpus and discharging the detained Loi Hoa from the custody of John D. Nagle, Commissioner of Immigration at the port of San Francisco.

II.

That the Court erred in not holding that it had jurisdiction to issue the writ of habeas corpus in the above-entitled cause as prayed for in the petition of Louis Wah Ton for a writ of habeas corpus.

III.

That the Court erred in not holding that the allegations set forth in the petition for a writ of habeas corpus were sufficient in law to justify the granting and issuing of a writ of habeas corpus. [12]

IV.

That the Court erred in not holding that Loi Hoa

was or is unlawfully imprisoned, detained, confined and restrained of his liberty by John D. Nagle, Commissioner of Immigration at the port of San Francisco.

V.

That the Court erred in not holding that there was an abuse of discretion on the part of the Immigration officials in denying the said Loi Hoa the right to enter the United States.

VI.

That the Court erred in not holding that the hearing or hearings accorded the said Loi Hoa by the said Immigration officials was or were unfair.

VII.

That the Court erred in not holding that the Section Six certificate presented by the said Loi Hoa to the Immigration officials complies fully with all the requirements of Section 6 of the Act of 1882, as amended by the Act of July 5, 1884, 23 Stat. L. 125; that said certificate was issued by the proper authority and was visaed by the appropriate consular representative of the United States, and as such legally entitled the said Loi Hoa to right of entry into the United States.

WHEREFORE, appellant prays that the said order and judgment of the United States District Court for the Northern District of California made, given and entered herein in the office of the Clerk of said Court on the 23d day of February, 1926, denying the petition for a writ of habeas corpus, be re-

versed and that the said Loi Hoa be restored to his liberty and go hence without day.

JOSEPH P. FALLON,
Attorney for Petitioner.

[Endorsed]: Filed Mar. 19, 1926. [13]

[Title of Court and Cause.]

ORDER ALLOWING APPEAL.

It appearing to the above-entitled court that Louie Wah Ton, the petitioner herein, has this day filed and presented to the above court his petition praying for an order of this court allowing an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the judgment and order of this court denying a writ of habeas corpus herein and dismissing his petition for said writ, and good cause appearing therefor,—

IT IS HEREBY ORDERED that an appeal be and the same is hereby allowed as prayed for herein; and

IT IS HEREBY FURTHER ORDERED that the Clerk of the above-entitled court make and prepare a transcript of all the papers, proceedings and record in the above-entitled matter and transmit the same to the United States Circuit Court of Appeals, for the Ninth Circuit within the time allowed by law; and

IT IS HEREBY FURTHER ORDERED that the execution of the warrant of deportation of said Loi Hoa be and the same is hereby stayed pending

this appeal and that the said Loi Hoa be not removed from the jurisdiction of this court pending this appeal.

Dated: March 19, 1926.

FRANK H. KERRIGAN,
United States District Judge.

[Endorsed]: Filed Mar. 19, 1926. [14]

[Title of Court and Cause.]

CITATION ON APPEAL (COPY).

United States of America,—ss.

The President of the United States, to JOHN D. NAGLE, Commissioner of Immigration, Port of San Francisco, and GEORGE J. HATFIELD, United States Attorney, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within 30 days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's office of the United States District Court for the Northern District of California, wherein Loi Hoa is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable FRANK H. KERRIGAN, United States District Judge for the Southern Division of the Northern District of California, this 19 day of March, 1926.

FRANK H. KERRIGAN,
United States District Judge.

[Endorsed]: Filed Mar. 19, 1926. [15]

[Title of Court and Cause.]

STIPULATION AND ORDER RESPECTING WITHDRAWAL OF IMMIGRATION RECORD.

It is hereby stipulated and agreed by and between the attorney for the petitioner and appellant herein and the attorney for the respondent and appellee herein, that the original Immigration Record in evidence and considered as part and parcel of the petition for a writ of habeas corpus upon hearing of the demurrer in the above-entitled matter, may be withdrawn from the files of the Clerk of the above-entitled court and filed with the Clerk of the United States Circuit Court of Appeals in and for the Ninth Circuit, there to be considered as a part and parcel of the record on appeal in the above-entitled case, with the same force and effect as if embodied in the transcript of the record, and so certified to by the Clerk of the Court.

Dated: San Francisco, California, March 19, 1926.

JOSEPH P. FALLON,
Attorney for Petitioner and Appellant.
GEO. J. HATFIELD,
S.,
Attorney for Respondent and Appellee. [16]

Upon reading and filing the foregoing stipulation, it is hereby ordered that the said immigration record therein referred to may be withdrawn from the office of the Clerk of this Court and filed in the office of the United States Circuit Court of Appeals for the Ninth Judicial Circuit, said withdrawal to be made at the time the record on appeal herein is certified to by this Court.

Dated: San Francisco, California, March 22, 1926.

A. F. ST. SURE,
United States District Judge.

[Endorsed]: Filed Mar. 22, 1926. [17]

CERTIFICATE OF CLERK U. S. DISTRICT COURT TO TRANSCRIPT ON APPEAL.

I, Walter B. Maling, Clerk of the United States District Court, for the Northern District of California, do hereby certify that the foregoing 17 pages, numbered from 1 to 17, inclusive, contain a full, true and correct transcript of the records and proceedings, in the matter of Loi Hoa, on Habeas

Corpus, No. 18,897, as the same now remain on file and of record in this office.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of three dollars and ninety cents ($3.90) and that the same has been paid to me by the attorney for the appellant herein.

Annexed hereto is the original citation on appeal.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court this 22d day of March, 1926.

[Seal] WALTER B. MALING,
Clerk.

By ——————,
Deputy. [18]

[Title of Court and Cause.]

CITATION ON APPEAL (ORIGINAL).

United States of America,—ss.

The President of the United States, to JOHN D. NAGLE, Commissioner of Immigration, Port of San Francisco, and GEORGE J. HATFIELD, United States Attorney, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within 30 days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's office

of the United States District Court for the Northern District of California, wherein Loi Hoa is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable FRANK H. KERRIGAN, United States District Judge for the Southern Division of the Northern District of California, this 19 day of March, 1926.

FRANK H. KERRIGAN,
United States District Judge. [19]

[Endorsed]: Filed Mar. 19, 1926. [20]

[Endorsed]: No. 4813. United States Circuit Court of Appeals for the Ninth Circuit. Loi Hoa, Appellant, vs. John D. Nagle, as Commissioner of Immigration at the Port of San Francisco, California, Appellee. Transcript of Record. Upon Appeal from the Southern Division of the United States District Court for the Northern District of California, Second Division.

Filed March 22, 1926.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

21 **[Minute entry of argument and submission, May 14, 1926, omitted in printing.]**

22 **In United States Circuit Court of Appeals, Ninth Circuit**

LOI HOA, APPELLANT vs. JOHN D. NAGLE, AS COMMISSIONER OF IMMIGRATION AT the port of San Francisco, California, appellee	No. 4813
LAM YOUNG, FOR AND ON BEHALF OF PHUONG CON, appellant vs. JOHN D. NAGLE, AS COMMISSIONER OF IMMIGRATION AT the port of San Francisco, California, appellee	No. 4814

Order directing filing of opinion and filing and recording of decrees

(Filed June 1, 1926)

By direction of the Honorable William B. Gilbert, William H. Hunt, and Frank H. Rudkin, circuit judges, before whom the above-entitled causes were heard, ordered that the typewritten opinion this day rendered by this court in the above-entitled causes be forthwith filed by the clerk and that a decree be filed and entered in the minutes of this court in each of said causes in accordance with the opinion filed therein.

23 In United States Circuit Court of Appeals

No. 4813, No. 4814

Opinion

(Filed June 1, 1926)

Before Gilbert, Hunt, and Rudkin, circuit judges.

GILBERT, Circuit Judge:

24 These two appeals present the question of the right of Chinese merchants, citizens, and subjects of the Republic of China to enter the United States as such merchants under authority of certificates issued in regular form in compliance with section 6 of the act of May 6, 1882 (22 Stats. 58), as amended by the act of July 5, 1884 (23 Stats. 115); but made by a French official of French Indo-China at Saigon and not by an official or representative of the Republic of China, the applicants having been domiciled merchants for a number of years in Indo-China. Their right to enter the

United States was denied by a board of special inquiry, and on appeal to the Department of Labor the ruling was affirmed on the ground that the applicants were only residents and not naturalized citizens of Indo-China, and that the country to which they owed full and unqualified allegiance at the time of their coming to the United States is the country from which they must obtain their certificates. Section 6 of the act requires that a Chinese merchant on coming to the United States "shall obtain the permission of and be identified as so entitled by the Chinese Government, or of such other foreign government of which at the time such Chinese person shall be a subject, in each case to be evidenced by a certificate issued by such government."

The solution of the question here involved depends upon the construction to be given to the word "subject" as used in the statute. The word may have a variant meaning in treaties or statutory enactments, according to the context and to the purpose intended to be subserved. Thus in Respublica v. Chapman, 1 Dallas 53, 60, it was held that it implies a subjection to some sovereign power, and means "one who owes obedience to the laws, and is entitled to partake of the elections into public office." But in The Pizarro, 2 Wheat. 227, 245, it was held that in a certain section of our treaty with Spain the words "subjects," "people," and "inhabitants" were "indiscriminately used as synonymous." The court said: "Indeed, in the language of the law of nations, which is always to be consulted in the interpretation of treaties, a person domiciled in a country, and enjoying the protection of its sovereign, is deemed a subject of that country. He owes allegiance to the country while he resides in it; temporary, indeed, if he has not, by birth or naturalization, contracted a permanent allegiance; but so fixed that, as to all other nations, he follows the character of that country, in war as well as in peace." In Carlisle v. United States, 16 Wall. 147, 154, it was said: "The citizen or subject owes an absolute and permanent allegiance to his government or sovereign, or at least until, by some open and distinct act, he renounces it and becomes a citizen or subject of another government or another sovereign. The alien, whilst domiciled in the country, owes a local and temporary allegiance, which continues during the period of his residence."

Appellants contend that the word "subject" as used in the exclusion act means one who is resident in or domiciled in "such other foreign" country, and they find support of that construction in the words "of which at the time." We think the contention must be sustained. The treaties with China and the statutes enacted in pursuance thereof were obviously intended only for the benefit of American citizens and Chinese subjects. To become subjects of Indo-China so as to owe allegiance to the government thereof these appellants would have been required to renounce their allegiance to the country in which they were born, and all rights which they theretofore had as subjects of China. We think it in-

conceivable that either by the United States or by China the benefits of the treaty here involved were intended to be extended to subjects of other nations.

This reasoning is rejected by the Department of Labor for the reason, it is said, "that Chinese may, if they so desire, become citizens or subjects of other nations by naturalization," and thus obtain certificates under section 6. But it is not to be supposed that in entering into the treaties with the United States the Chinese Government had in mind the protection of Chinese who had transferred their allegiance to other countries and had ceased to be Chinese subjects. This is denied by the very terms of the treaties. In the treaty of November 17, 1880, it was declared that the purpose thereof was to promote commercial relations "between the citizens and subjects of the two powers." And in the treaty of March 17, 1894, it was recited that the purpose was "to protect the citizens or subjects or each within the jurisdiction of the other." And it is significant as expressing the understanding of the high contracting parties that in that treaty, which was in force for a period of ten years, it was expressly provided that in order that Chinese merchants
27 and others of the favored class might be admitted to the United States, they might produce a certificate from their government, "or the government where they last resided."

The judgment in each case is reversed and the cause is remanded with instructions to issue the writ of habeas corpus as prayed for.

[File indorsement omitted.]

28 In United States Circuit Court of Appeals

No. 4813

Decree

Filed June 1, 1926

Appeal from the Southern Division of the District Court of the United States for the Northern District of California, Second Division.

This cause came on to be heard on the transcript of the record from the Southern Division of the District Court of the United States for the Northern District of California, Second Division, and was duly submitted.

On consideration whereof it is now here ordered, adjudged, and decreed by this court that the judgment of the said District Court in this cause be, and hereby is, reversed, and that this cause be, and hereby is, remanded to the said District Court with instructions to issue the writ of habeas corpus as prayed for.

[File indorsement omitted.]

29 **In United States Circuit Court of Appeals**

No. 4813, No. 4814

Order staying mandates

Filed July 29, 1926

Good cause therefor appearing, it is hereby ordered that the issuance of each of the mandates in the above-entitled causes be stayed to and including September 1, 1926.

Dated San Francisco, July 27, 1926.

WM. H. HUNT,
United States Circuit Judge.

[File indorsement omitted.]

30 [Clerk's certificate omitted in printing.]

31 Supreme Court of the United States

Order allowing certiorari

Filed November 23, 1926

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

O